IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO. 798 OF 2007
IN
SECOND APPEAL NO. 629 OF 2007

.....

Office Notes, Office Memorandum of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders

.....

Mr. Pankaj Konali h/f. Sagar Kasar for the appellant.
Mr. Sandesh D. Patil for the respondent.

CORAM : D.B. BHOSALE, J.
DATE : 31ST OCTOBER, 2007.

P.C. :

. Heard learned counsel for the parties. Perused the impugned judgment. I am satisfied that the marriage between the appellant and the respondent - wife has broken irretrievably and perhaps that is the reason why the appellant has not pressed his appeal against a decree of divorce. Considering the nature of allegations made by the parties against each other and considering overall facts and circumstance of the case, I am not inclined to grant interim relief as prayed by the applicant. I am satisfied that in the facts and

circumstances of the case, it is not desirable to allow the parties to stay together. Having regard to the judgments, impugned in the appeal, and the fact that the son stay with the mother i.e. respondent - wife, I am of the view that the wife is entitle to stay in the flat. The prayer for interim stay is, therefor, rejected.

2. It is made clear to the parties that if either of the parties approach Civil Court for adjudication of their rights in respect of the flat, the Civil Court shall decide the suit on merits in accordance with law and without being influenced by the observations made in the instant proceedings.

3. With these observations, the Civil Application is disposed of.

4. At this stage, learned counsel for the applicant prays

for eight weeks time to vacate the flat. Mr. Sandesh Patil, learned counsel for the respondent has no objection for granting time as prayed, subject to the applicant filing an usual undertaking in this Court. Time as prayed is granted subject to filing the undertaking in this Court on or before 19th November 2007. Filing of the undertaking, however, shall not curtail the right of the applicant to challenge the order passed on this Civil Application in further proceedings, if he so desires. If the applicant fails to file undertaking as aforestated, it will be open to the respondent - wife to execute the decree.

(D.B.BHOSALE,J.)